

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

HOLIDAY SHORES SANITARY	)	
DISTRICT, individually and on behalf of all	)	
others similarly situated,	)	
	)	
	)	
Plaintiff,	)	CASE NO. 3:04-cv-00688-MJR
	)	
vs.	)	JUDGE MICHAEL J. REAGAN
	)	
SYNGENTA CROP PROTECTION, INC., et	)	MAGISTRATE JUDGE
al.,	)	CLIFFORD J. PROUD
	)	
Defendants.	)	JURY TRIAL DEMANDED

**GROWMARK'S MOTION FOR LEAVE TO FILE  
SUPPLEMENTAL MEMORANDUM CONCERNING  
RECENT ILLINOIS SUPREME COURT AUTHORITY**

1. On October 1, 2004, Growmark filed its motion to dismiss the amended complaint.
2. Thereafter, this court granted plaintiff's motion for extension of time to respond to the motion. No response has been filed, and no due date has been set for plaintiff's response.
3. On November 18, 2004, the Illinois Supreme Court decided two firearms cases styled, *City of Chicago v. Beretta Corp.*, --N.E.2d --, 2004 WL 2609699 (Ill. Nov. 18, 2004), and *Young v. Bryco Arms*, --N.E.2d --, 2004 WL 2609677 (Ill. Nov. 18, 2004). Copies of the decisions are marked as exhibits A and B to the proposed brief.
4. In these cases, the Illinois Supreme Court held that the plaintiffs had failed to state a claim for nuisance or negligence against the manufacturers and distributors of firearms.
5. The Supreme Court held that the legal activities of those manufacturers and distributors, in compliance with extensive federal regulations, did not form the basis for a negligence or nuisance claim.

6. In the present case, Holiday Shores alleges various claims, including nuisance and negligence.

7. Growmark attaches a proposed memorandum analyzing the two Illinois Supreme Court decisions as they relate to this case.

8. Growmark respectfully requests that the court grant it leave to file the proposed supplemental memorandum.

WHEREFORE, for the foregoing reasons, Growmark, Inc. respectfully requests that this Court grant its motion to file the attached memorandum and supplemental authority.

DATED: December 10, 2004

Respectfully submitted,

**GROWMARK, INC.**

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**PROOF OF SERVICE**

The undersigned certifies that on December 13, 2004, a copy of the foregoing was electronically filed with the Clerk of the Court for the Southern District of Illinois using the CM/ECF system which will send notification of such filing to the following:

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